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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,555	10/16/2003	Andy K.C. Ng	NG-4	4935
32132	7590	06/10/2004	EXAMINER	
LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067			FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,555

Applicant(s)

NG, ANDY K.C.

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. On Friday May 21, 2004 Mr. Eric Lamorte provisionally elected with traverse to prosecute claims 1-13, in response to a restriction requirement made by telephone. During the examination of these claims the examiner decided to withdraw the restriction requirement. Consequently all of the claims have been treated on their merit in this office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Knox.

Rogers discloses in Figs 1-6, a whirling tethered toy assembly, comprising: a tether [control suspending connection 8] having a first end and a second end and a toy [ball 10] coupled to the first end of the tether.

Rogers does not disclose the tether having a first section and a second section, a safety connector disposed between the first end and the second end of the tether and the safety connector has a first half and a second half wherein the first section of the tether is connected to the first half of the safety connector and the second section of the tether is connected to the second half of the safety connector. Additionally, Rogers does not disclose wherein the first half of the safety connector separates from the second half

of the safety connector when the tether experiences a force in excess of a predetermined maximum force and can be selectively reconnected Once Separated.

Knox teaches the concept of providing a whirling/sawivel toy with a safety connector 14 disposed between the first end and the second end of a tether [rope 11] and the safety connector has a first and second halves 21 wherein the first section 13 of the tether is connected to the first half of the safety connector and the second section 17 of the tether is connected to the second half of the safety connector. Additionally, Knox teaches wherein the first half of the safety connector separates from the second half of the safety connector when the tether experiences a force in excess of a predetermined maximum force [col 3 lines 65-75] and can be selectively reconnected Once Separated [col 4 lines 7-17]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provided the device of Rogers with the safety connector as taught by Knox in order to avoid the undesirable twisting of the tether when it is being manipulated and for added safety in case the device get tangled around the neck of the child.

Also as required by claims 6-7 the first half and second half of the safety connector in the modified device of Rogers is considered to be inherently capable of being separated when the safety connector experiences a bending force that exceeds a predetermined maximum bending force wherein the maximum tension force is greater than the maximum bending force.

4. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Knox as applied to claims 1-7 above and further in view of Turner.

Modified device of Rogers has most of the elements of these claims but for an elastic tether.

Turner recognizes a tethered toy assembly comprising an elastic [col 4 lines 13-14 from the bottom] tether. It would have been obvious to provided the modified device of Rogers with the elastic tether as taught by Turner in order make the device more durable.

The method steps recited in claims 10-13 would be met during the normal operation of the apparatus disclosed by modified device of Rogers. They are inherent method of use of the modified device of Rogers.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FF

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a small flourish.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700